

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:20-cv-00488-FDW-DSC

AYMAN KAMEL and)
5CHURCH ATLANTA, INC.,)
Plaintiffs,)
vs.) ORDER
ALEJANDRO TORIO,)
Defendant.)

THIS MATTER is before the Court following Plaintiffs' failure to response to this Court's Order to show cause why the complaint against Defendant should not be dismissed for failure to prosecute. (Doc. No. 3). The Court ordered Plaintiffs, who are represented by counsel, to show cause by April 29, 2021, why service was not completed within the required time limit, or to provide an affidavit of service within that time and an appropriately supported motion under Rule 55 of the Federal Rules of Civil Procedure. Neither Plaintiffs nor their counsel filed any response, and the time for doing so has long expired. In fact, more than one year has elapsed since Plaintiffs filed the Complaint, and to date, Plaintiffs have not submitted *any* pleading or taken *any* action in prosecution of this case. It appears that Plaintiffs—and their counsel—have abandoned this action.¹

¹ The Court is particularly troubled that Plaintiffs' counsel did not respond to the Show Cause Order. If service had not been timely completed, an appropriate response could have included a request for additional time or a voluntary dismissal pursuant to Fed. R. Civ. P. 41(a). If a change in representation had occurred, counsel should have filed a Motion to Withdraw. Complete silence in response to an order of this Court is concerning, and counsel is cautioned to take any necessary steps in the future to comply with similar directives or the Court may not be so lenient in excusing counsel's non-response. Notably, this is the second case on this Court's docket where this counsel has filed a complaint, failed to prosecute the case, and simply not responded to a show cause order of this Court. See Bryan v. Orion Capital Solutions, 3:20-cv-226 (W.D.N.C.).

IT IS THEREFORE ORDERED that for the reasons stated in the Show Cause Order (Doc. No. 3), this matter is DISMISSED WITHOUT PREJUDICE. The CLERK OF COURT is directed to CLOSE THE CASE.

IT IS SO ORDERED.

Signed: November 4, 2021


Frank D. Whitney
United States District Judge